

Marty M. Snyder, KS S. Ct. #11317
Assistant Attorney General
120 SW 10th Avenue, Second Floor
Topeka, KS 66612-1597

BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD

In the Matter of)
)
NICOLE ORUETA,)
 LCMFT #771)
_____)

Case No. 11-CT-087

CONSENT AGREEMENT AND ORDER

NOW, on this 4th day of April, 2012, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board), by and through Assistant Attorney General Marty M. Snyder, by agreement of Nicole Orueta (Respondent/Licensee) and the Board for the purpose of resolving the above-captioned case.

Licensee hereby acknowledges the following facts which are found to be established by a preponderance of clear and convincing evidence:

1. Nicole Orueta was a Licensed Marriage and Family Therapist within the meaning of the Kansas Marriage and Family Therapists Licensure Act, K.S.A. 65-6401, *et seq.*, and amendments thereto, until May 31, 2011. On June 14, 2011, Licensee was issued a Licensed Clinical Marriage and Family Therapist license.

2. On June 22, 2011, the Board received a self-report of information concerning Licensee's conduct, alleging Licensee may have violated certain statutes and regulations governing her license as a marriage and family therapist.

3. The Board conducted an investigation concerning Licensee's alleged violation of statutes and regulations. Licensee had provided a letter of explanation dated June 14, 2011, with her self-report.

4. As a result of the investigation, the Board finds that the following facts have been established by a preponderance of clear and convincing evidence:

a. Licensee applied for an LCMFT license on May 27, 2011. Her LMFT license was due to expire on May 31, 2011.

b. Licensee was issued an LCMFT license on June 14, 2011.

c. Licensee continued to practice during that time and held herself out as a Licensed Clinical Marriage and Family Therapist for the two weeks before she was granted that level of licensure and after her LMFT license expired. She allowed her employer to file insurance claims for payment during that time.

d. Licensee claims that she assumed that the LCMFT license would be effective as of the date of her application (May 27). She self-reported this information to her employer, and all payments for services during that time were refunded.

5. The Complaint Review Committee of the Board finds that probable cause exists to believe Licensee has violated the following statute:

A. K.S.A. 65-6403. Prohibited acts and representations; misdemeanor.

(a) No person shall engage in the practice of marriage and family therapy or represent that such person is a licensed marriage and family therapist . . . without having first obtained a license as a marriage and family therapist under the marriage and family therapist licensure act.

(b) On and after the effective date of this act, no person shall engage in the practice of marriage and family therapy as a clinical marriage and family therapist or represent that such person is a licensed clinical marriage and family therapist . . . without having first obtained a license as a clinical marriage and family therapist under the marriage and family therapist licensure act.

(c) Violation of this section is a class B misdemeanor.

B. K.A.R. 102-5-12. Unprofessional conduct.

(b) Any of the following acts by either a marriage and family therapy licensee or a marriage and family therapy licensure applicant shall constitute unprofessional conduct:

(51) practicing marriage and family therapy after one's license expires;

(52) using without a license or continuing to use after a license has expired any title or abbreviation prescribed by law to be used solely by persons who currently hold that type or class of license.

However, Licensee and the Board mutually desire to enter a Consent Agreement and Order in lieu of adjudicative proceedings to resolve the report of alleged violations.

WHEREFORE, Licensee waives all rights to an adjudication of facts and law which could be determined pursuant to a hearing conducted in accordance with the Kansas Administrative Procedure Act in relation to Case No. 11-CT-087.

WHEREFORE, Licensee waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Judicial Review Act in relation to Case No. 11-CT-087.

WHEREFORE, the Board and Licensee agree to the following terms and conditions:

(a) Licensee (or Licensee's employer) shall contact all affected individual payors and insurance company payors within thirty (30) days of the effective date of this Agreement and notify them of her unlicensed practice for approximately two weeks after May 31, 2011.

(b) Licensee shall provide copies of all communication documents from Licensee's employer to the individuals and insurance companies, as well as any

responses received, regarding her unlicensed practice to Carol Baldwin, the Board's special investigator within ninety (90) days of the effective date of this Agreement.

(c) Licensee shall pay a fine of \$100.00 to the Board within thirty (30) days of the effective date of this Agreement.

(d) Licensee shall be responsible for any costs and expenses incurred in satisfying the terms of this Consent Agreement and Order.

(e) Evidence of Licensee's breach, violation or failure to comply with any of the conditions will result in a hearing, with notice and opportunity to be heard, to determine whether Licensee has in fact breached, violated or failed to comply with any conditions. Upon determination at such hearing that Licensee has breached, violated or failed to comply with any condition, Licensee understands and agrees that her Kansas Licensed Clinical Marriage and Family Therapy license could be suspended until such time as Licensee can demonstrate compliance with all terms and conditions of this Consent Agreement and Order to the satisfaction of the Board.

(f) Licensee acknowledges that proof submitted to the Board by affidavit or other form of competent evidence that Licensee has breached, violated or failed to meet the conditions of this Consent Agreement and Order shall be good and sufficient evidence to support an alleged violation of breach, violation or non-compliance.

(g) Licensee acknowledges an affirmative duty to notify the Board within five (5) days of any changes in personal or professional status which would inhibit compliance with any condition of this Consent Agreement and Order. In such event, a designee of the Board is authorized to modify or amend this Consent Agreement and Order in writing.

(h) Licensee understands that a notification of this Consent Agreement and Order shall be provided to any other state licensing board if Licensee is also licensed, registered or certified in another state.


(i) This Consent Agreement and Order constitutes the entire agreement between Licensee and the Board and may be modified or amended only by written agreement signed by Licensee and the Board or a designee of the Board.

WHEREFORE, Licensee consents to the submission of this Consent Agreement and Order to the Board's Complaint Review Committee and understands that, upon approval by the Complaint Review Committee, this Consent Agreement and Order will become a Final Order of the Board. The Board has authorized the Complaint Review Committee to determine approval of this Consent Agreement and Order.

WHEREFORE, the Board agrees that, so long as Licensee complies with the above conditions, the Board will not initiate further disciplinary action against Licensee in relation to violations of K.S.A. 65-6403 and K.A.R. 102-5-12(b) as a result of this proceeding.

WHEREFORE, the foregoing provisions are consented to, are hereby made the final Order of the Kansas Behavioral Sciences Regulatory Board and become effective on the date indicated in the Certificate of Service below.

IT IS SO ORDERED.



Terry Pfannerstiel
Chair, Complaint Review Committee

APPROVED AND CONSENTED TO:

Nicole Orueta

Nicole Orueta
Licensee

March 22, 2012
Date

CERTIFICATE OF SERVICE

This is to certify that on this 6th day of April, 2012, a true and correct copy of the above Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

Nicole Orueta

And a copy sent by building mail to:

Marty M. Snyder
Assistant Attorney General
120 SW Tenth Ave., 2nd Floor
Topeka, KS 66612

Carol Baldwin
For the Board

State of Kansas
Behavioral Sciences Regulatory Board

SAM BROWNBACK
Governor

TOM HAWK, PhD
Executive Director



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May 24, 2012

Nicole Orueta

Re: Consent Agreement and Order 11-CT-0087

Dear Ms. Orueta,

This letter is to confirm that you complied with all of the conditions set forth in the Consent Agreement and Order dated April 4, 2012. You completed those conditions and the above mentioned case was closed on April 16, 2012.

You are now unconditionally licensed to practice as an LCMFT.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Carol Baldwin".

Carol Baldwin
Special Investigator